

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A NONREFUNDABLE TAX CREDIT FOR EDUCATION EXPENSES; LIMITING THE AMOUNT OF THE TAX CREDIT; DEFINING "EDUCATION EXPENSES"; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Elementary and secondary education expense tax credit -- definition.

(1) There is a credit against the taxes otherwise due under this chapter for qualified elementary and secondary education expenses paid by an individual for a dependent who is a minor during the tax year.

(2) (a) Education expenses that qualify for the credit under this section are amounts paid by an individual for a dependent who is in compliance with Title 20, chapter 5, part 1.

(b) Qualifying education expenses do not include amounts paid to a governmental entity as property taxes, assessments, or fees.

(3) The amount of the credit for qualifying education expenses is \$350.

(4) A credit is not allowed under any other provision of this chapter with respect to any amount for which a credit is allowed under this section. Any amount of the credit allowed under this section that is in excess of an individual's tax liability may not be refunded to the individual.

(5) In the case of a married individual filing a separate return, the amount of the credit under subsection (3) is limited to one-half of the applicable amount.

(6) (a) As used in this section, "education expenses" includes:

(i) fees or tuition for instruction in a public or nonpublic elementary or secondary school during the regular school day or school year, including tutoring, class trips, driver's education taken as part of the school curriculum, or summer camps, in grade or age appropriate curricula that supplement curricula and instruction available during the regular school year, that assists a dependent to improve knowledge of core curriculum areas or to expand knowledge and skills under the accreditation standards;

(ii) expenses for textbooks, including books and other instructional materials or equipment used in public or nonpublic elementary and secondary schools, including a home school program, in teaching only those

1 subjects legally and commonly taught in public or nonpublic elementary or secondary schools or in a home
2 school program in this state;

3 (iii) computer hardware and educational software that assists a dependent to improve knowledge of core
4 curriculum areas or to expand knowledge and skills, purchased for use in the taxpayer's home and not used in
5 trade or business regardless of whether the computer is required by the dependent's school; and

6 (iv) equipment required for shop, home economics, or art courses.

7 (b) Education expenses does not include:

8 (i) amounts paid to a governmental entity as property taxes, assessments, or fees;

9 (ii) tuition for nursery school or prekindergarten classes;

10 (iii) education expenses after the dependent has left high school;

11 (iv) instructional books and materials used in the teaching of religious tenets, doctrines, or worship for
12 the purpose of instilling the tenets, doctrines, or worship, nor does it include books or materials for extracurricular
13 activities;

14 (v) the cost of driving a dependent to school;

15 (vi) school hot lunches; and

16 (vii) expenses for extracurricular activities.

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18 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
19 integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [section 1].

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21 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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23 **NEW SECTION. Section 4. Retroactive applicability.** [This act] applies retroactively, within the
24 meaning of 1-2-109, to tax years beginning after December 31, 2004.

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